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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/856,467	05/14/97	PARISI	R

MICHAEL I KROLL  
171 STILLWELL LANE  
SYOSSET NY 11791

MM31/0529

 EXAMINER

DANG, H

 ART UNIT PAPER NUMBER

2873

DATE MAILED: 05/29/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/856,467</b>	Applicant(s) <b>Parisi</b>
	Examiner <b>HUNG DANG</b>	Group Art Unit <b>2515</b>

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-22 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-22 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2873

**Oath/Declaration**

1. The declaration filed 5/14/97 is acceptable.

**Information Disclosure Statement**

2. The Information disclosure Statement filed on 5/14/97 has been considered.

**Claim Rejections under 35 USC - 112**

3. Claims 13-19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 13, lines 1 and 2, "an extension member extending from said gripping means such that a distal end of said member extends from about 0 to about 2 inches" is unclear how the extension member extends from about 0 inches, the extension member should has some length instead zero inches.

Correction is required.

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**Claims Rejection Under 35 USC - 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Benzakarya** (5,664,746).

Benzakarya discloses baby bottle holder which comprises means for gripping the baby bottle (16), an extension member (13) extending from the gripping means such that a distal free end of said member extends past the gripping means and a visually stimulating ornament on a distal free end of said extension member.

Although Benzakarya device does not teach the exact the shape, size and dimension of the extension member and the ornament as that claimed by Applicant, the shape, size, dimension differences are considered obvious design choices and are not patentable unless unobvious or unexpected results are obtained from these changes. It appears that these changes produce no functional differences and therefore would have been obvious.

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Note that: Benzakarya does not intend his device to be used for "training the eyes of the infant"; However, this feature is an intended use of the Applicant's device and not limiting feature of the claim. The structure of the claim device is the same as that of Benzakarya. Therefore, the claimed invention does not distinguish over the Benzakarya device.

5. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (703) 308-0550.

5/98



HUNG DANG

PRIMARY EXAMINER

TECHNICAL CENTER 2800